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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/801,362

03/15/2004

Dan Meisburger

63077.US

4849

60838

7590

02/15/2008

LNG/KLA JOINT CUSTOMER

C/O LUEDEKA, NEELY & GRAHAM, P.C.

P.O. BOX 1871

KNOXVILLE, TN 37901

EXAMINER

NGUYEN, KIET TUAN

ART UNIT

PAPER NUMBER

2881

NOTIFICATION DATE

DELIVERY MODE

02/15/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

RBARNES@LNG-PATENT.COM

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Office Action Summary

Application No.

10/801,362

Applicant(s)

MEISBURGER ET AL.

Examiner

Kiet T. Nguyen

Art Unit

2881

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2004 and 20 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30, 33-55 and 59-62 is/are pending in the application.
- 4a) Of the above claim(s) 9-30, 33-55 and 59-62 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

The previous office actions mailed on June 29, 2007 and November 01, 2007 are hereby withdrawn. Upon reconsideration they are covered that the restriction requirements were improperly made because they did not follow the current Office Policy regarding restriction practice for reissue application as outlined in **MPEP 1450**. Inconvenient to applicant is regretted.

Applicant is requested to provide the PTO-1449, which indicates all references recited in the original patent.

The amendments filed on 03-15-2004 and 09-20-2004 are improper because added or removed subject matter to or from the specification must be underlined or bracketed respectively, and all new claims must be entirely underlined.

This application is objected to under 37 CFR 1.172(a) as lacking the written consent of all assignees owning an undivided interest in the patent. The consent of the assignee must be in compliance with 37 CFR 1.172. See MPEP § 1410.01.

A proper assent of the assignee in compliance with 37 CFR 1.172 and 3.73 is required in reply to this Office action.

The reissue oath/declaration filed with this application is defective because it fails to identify at least one error which is relied upon to support the reissue application. See 37 CFR 1.175(a)(1) and MPEP § 1414.

The reissue oath/declaration filed with this application is defective (see 37 CFR 1.175 and MPEP § 1414) because of the following:

The declaration does not identify the residence and citizenship of inventors such as Alan D. Brodie, Zhong-Wei Chen, Jack Y. Jau, Paul Sandland, Dennis G. Emge,

Art Unit: 2881

John Greene and Kirkwood Rough as required by 37 CFR 1.63(a) and 35 U.S.C. 115.

Since this is a statutory requirement, it is not subject to waiver.

Claims 1-30, 33-55 and 59-62 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-8, drawn to a system and method for inspecting an optical mask including a conductive coating, classified in class 250, subclass 310.
- II. Claims 9-30, drawn to a method for inspecting a substrate including reducing charges at a surface of the substrate, classified in class 250, subclass 251.
- III. Claims 33-48, drawn to a system for inspecting defects on a substrate, classified in class 324, subclass 751.
- IV. Claims 49-54 and 59-61, drawn to a method for inspecting insulated surfaces of a substrate including processing images, classified in class 324, subclass 501.
- V. Claims 55 and 62, drawn to a system for classifying defects in a substrate including examined images to determine features of the substrate, classified in class 324, subclass 765.

The inventions are distinct, each from the other because:

Inventions I-V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination invention has separate utility such as the invention I recites a system and/or method examining a backscatter electron waveform and a secondary electron waveform to determine features of a conductive optical mask, While the invention II recites a method using a second group of electrons to reduce charging at a surface of a substrate, the invention III recites a system comparing images from two different locations to determine the location of defects on a substrate, the invention IV recites a method averaging the multiple images to maximize signal contrast in the image of the pattern feature or substrate, or the invention V recites a system examining an image from detected electrons to determine features of a substrate for classifying defects in the substrate. See MPEP § 806.05(d).

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 9-30, 33-55 and 59-62 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Applicant is therefore requested to cancel all newly added claims 9-30, 33-55 and 59-62 which are directed to inventions that are independent or distinct from the invention originally claimed for the reasons above.

Claims 1-8 are allowed.

Reasons for indicating allowable subject matter

The prior art fails to disclose a system and/or method for automatically inspecting an optical mask, which includes means for examining a backscatter electron waveform and a secondary electron waveform to determine construction features of a conductive optical mask as recited in claims 1 and 5.

REMARKS

Applicant is suggested to file a divisional application for each group and is directed to **see MPEP 1450**.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


1) Meisburger et al (5,665,968) discloses an electron microscope apparatus for inspecting optical masks.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kiet T. Nguyen whose telephone number is 571-272-2479. The examiner can normally be reached on Monday-Friday from 8.00 AM to 6.00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert H. Kim, can be reached on Monday-Friday. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


KIET T. NGUYEN
PRIMARY EXAMINER